IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1819 OF 2006

Mr.Paparaju R. Murthy. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri A.P. Mundargi with N. Mundargi for Applicant.
Shri Y.S. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : MAY 5, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

2. The complaint has been filed against the present applicant under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Ad-interim relief was granted and APP was given time to take instructions.

3. Brief facts are that sometime in January 2005, Mumbai Metropolitan Region Development Authority (MMRDA) had assigned the project of Comprehensive Transportation Study for the purpose of preparing transportation master

plan for the next 25 years which is a project funded by the World Bank and which is given to one LEA International, Canada with LEA Associates South Asia Limited which in turn had sub-consulted one ORG Nelson MARG India Limited (hereinafter referred to as "ORG"). The said ORG was to carry out household survey and had appointed 500 persons for that purpose. The complainant was one of those 500 persons who was supposed to survey at household level and give his report to ORG. The complainant was appointed in May 2005 as Data Collector.

4. On 10th November, 2005, he was caught in the commission of malpractices and memo was issued to him by the said ORG which is a separate body not concerned with the applicant’s company. The complainant tendered his apology in writing. Thereafter, it was again noticed that the complainant had committed malpractices and therefore, his job was terminated by ORG. The complainant initially lodged the complaint against the senior officers of ORG under the Atrocities Act. They were granted anticipatory bail by this Court.

5. The complainant approached various Ministers and other politicians and threatened that he would go on hunger strike and resort to other means of protest. Some of the Ministers, therefore, requested the applicant to look into the matter and report was called from ORG and LEA Associates South Asia Pvt.Ltd. who had submitted the entire background of the complainant. Accordingly, it was decided to appoint a committee in the matter of the complainant. However, the complainant did not part with any documents and therefore, a letter was issued on 25th April, 2006 which was addressed to the complainant. The complainant in reply asked the applicant either to pay him money or to direct the ORG and LESA Pvt.Ltd to withdraw the order of termination against him. When the applicant informed that he had no authority over ORG and LESA Pvt.Ltd., the complainant threatened that he would file a police complaint and accordingly, the present application has been filed under the Atrocities Act.

6. I have perused the complaint. In my view, prima facie case is made out by the applicant for grant of

anticipatory bail.

7. This Court in a case of **Ramchandra Govindrao Watkar and Anr. V/s. State of Maharashtra, reported in 1995(2) Mh.L.J. Page 669,** has held that merely because the complaint is filed under the Atrocities Act, that would not prevent the accused in filing application under Section 438 if he establishes that from the perusal of the FIR and other material, offence under the Atrocities Act has not been made. I have perused the complaint and the material and also the report which is submitted by the learned APP appearing on behalf of the State. The applicant in the first place is not concerned with the ORG who had employed the complainant. The applicant was merely asked to consider the case of the complainant and when they expressed their inability, the present complaint appears to have been filed against him. The record also indicates that the complainant appears to be in the habit of filing complaints under the Atrocities Act since this is a second complaint filed by him. Prima facie case, therefore, is made out for grant of anticipatory bail.

8. The applicant in the event of his arrest in connection with a complaint which is filed by Ravindra Kumar Sarwade with the Bandra-Kurla Complex Police Station under Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, may be released on bail in the sum of Rs.10,000/- with one or two sureties in the like amount. The applicant shall co-operate with the police during the investigation if a complaint is registered with them.

. The application is disposed of in the above terms.

(V.M. Kanade, J.)